

REMARKS

Prior to this Response, an Office Action was mailed May 5, 2004.

In the Office Action, regarding the Claims, the Commissioner rejected Claims 1-5 under Section 112; rejected Claims 1-4 under Section 102(b); and rejected Claims 5 and 6 under Section 103(a).

In this Response, regarding the Claims, Applicant amended Claim 1 to remove the Section 112 rejection; and directed remarks to and traversed the Section 102 and 103 rejections, and further made amendments which would render the rejections moot.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Claims 1-6 are now pending in the present application. Reconsideration is requested. In addition to the above amendments, the Applicant makes the following remarks regarding individual issues:

THE APPLICANT'S TIME TO RESPOND

The last Office Action was mailed on May 5, 2004. The three-month initial deadline for responding without having to pay a penalty fee ends on August 5, 2004. This response is filed timely within that time period. In determining whether this document is timely filed, the Patent Office is asked to note the Applicant's Certificate of Mailing in conjunction with 37 C.F.R. § 1.8.

THE SECTION 112 REJECTION

The Commissioner rejected Claims 1-5 under 35 U.S.C. § 112 as indefinite in that Claims 1, from which Claims 2-5 depend, ends in a semicolon. Claim 1 has been amended to correct this informality. Applicant believes this renders the rejection moot and accordingly asks that it be withdrawn.

THE SECTION 102(B) ANTICIPATION REJECTION

The Commissioner rejected Claims 1-4 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 6,575,312 to Santa Cruz et al. (hereinafter Santa Cruz). Anticipation under 35 U.S.C. § 102(b) requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Lindemann Maschinenfabric GmbH. v. American Hoist & Derrick Co., 221 USPQ 481 (Fed. Cir. 1984); Advanced Display Systems Inc. v. Kent State University, 54 USPQ2d 1673 (Fed. Cir. 2000). “The identical invention must be shown in as complete detail as is contained in the ...claim.” Richardson v. Suzuki Motor Co., 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP 2131.

With respect to the Santa Cruz rejection of Claims 1-4, Santa Cruz discloses a support bracket for garden hose attachments. Santa Cruz discloses a support bracket with an elongated channel sized to slidably receive and retain externally threaded attachment plugs to which garden attachments can be screwably attached. See Santa Cruz col. 2, Ins. 40-50. Santa Cruz emphasizes that it is “very important” that the attachment plugs have a hexagonal or square shaped base to avoid turning within the elongated channel. See Santa Cruz col.

3, Ins. 1-6. Notably, Santa Cruz does not teach or disclose attachment plugs which are attached at an acute angle in relation to a mounting rack. Further, Santa Cruz does not teach or disclose attachment plugs which do not have hexagonal or square bases. As such Santa Cruz does not anticipate Applicant's claimed invention.

In the present invention, a key aspect of novelty is the attachment of the plugs at an acute angle in relation to the mounting rack. See Specification page 2, Ins. 10-12, page 4, Ins. 15-16 & Figure 1.

The rejection is respectfully traversed. Nevertheless, Applicant has amended Claims 1, 3 and 4. It is believed that the rejection has become moot by the present amendments to the claim in question. Specifically, Claims 1, 3, and 4 have been amended to read:

1. (Currently amended) A hose attachment organizer, comprising:
a rack having a face;
a plurality of mounts connected to the rack, each mount having threads mateable to a garden hose attachment[[:]], wherein one or more of said mounts is connected to said rack at an acute angle in relation to the face of said rack.
3. (Currently amended) The organizer of claim 1, wherein all of said mounts are connected to said rack at an acute angle in relation to the face of said rack.
4. (Currently amended) The organizer of claim 2, wherein all of said mounts are connected to said rack at an acute angle in relation to the face of said rack.

Notably, rejected Claims 2-4 depend from Claim 1.

While Applicant believes the cited art did not anticipate Claims 1-4, it is believed that the amendments make clear that Santa Cruz does not anticipate.

These amendments are supported in the Specification at Figure 1 and page 2 Ins. 10-14 and page 4, Ins. 15-20.

Accordingly, the rejection should be withdrawn.

THE SECTION 103(A) OBVIOUSNESS REJECTION

The Commissioner rejected Claims 5 and 6 under 35 U.S.C. § 103(a) as unpatentable over Santa Cruz in view of U.S. Patent 3,667,712 to Furgueson (hereinafter "Furgueson"). In the case of a Section 103(a) obviousness rejection, it is the Patent Office's initial burden to put forward a prima facie case, without which the Applicant is not required to submit evidence of nonobviousness. MPEP 2142, 2143; In re Mayne, 41 U.S.P.Q.2d 1451, 1453 (Fed. Cir. 1997).

The prima facie case requires:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure."

MPEP 2143. Section 103 requires analysis of a claimed invention as a whole:

"It is true that [the claimed invention] consists of a combination of old elements so arranged as to perform certain related functions. It is immaterial to the issue, however, that all of the elements were old in other contexts. What must be found obvious to defeat the patent is the claimed combination. ... Focusing on the obviousness of substitutions and differences, instead of on the invention as a whole, is a legally improper way to simplify the often difficult determination of obviousness."

The Gillette Co. v. S.C. Johnson & Son Inc., 16 USPQ2d 1923 (Fed. Cir. 1990).

The legal determination under Section 103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. In re O'Farrell, 7 USPQ2d 1673, 1680 (Fed. Cir. 1988). The foundational facts for the prima facie case of obviousness are: (1) the scope and content of the prior art; (2) the difference between the prior art and the claimed invention; and (3) the level of ordinary skill in the art. Graham v. John Deere Co., 383 U.S. at 17-18; Miles Lab., Inc. v. Shandon Inc., 27 USPQ2d 1123, 1128 (Fed. Cir. 1993). Each obviousness determination rests on its own facts. In re Durden, 226 USPQ 359, 361 (Fed. Cir. 1985).

Moreover, "It is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art." Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416 (Fed. Cir. 1986).

Here, one skilled in the art reading Santa Cruz and Furgueson would not be motivated to discover or build Applicant's invention. As such the Santa Cruz/Furgueson combination neither renders unpatentable, nor is analogous to, Applicant's invention.

With respect to the Santa Cruz, Santa Cruz discloses a support bracket for garden hose attachments. Santa Cruz discloses a support bracket with an elongated channel sized to slidably receive and retain externally threaded attachment plugs to which garden attachments can be screwably attached. See Santa Cruz col. 2, Ins. 40-50. Santa Cruz emphasizes that it is "very important"

that the attachment plugs have a hexagonal or square shaped base to avoid turning within the elongated channel. See Santa Cruz col. 3, Ins. 1-6. First, Santa Cruz does not teach or disclose attachment plugs which are attached at an acute angle in relation to a mounting rack. Second, Santa Cruz does not teach or disclose attachment plugs which do not have hexagonal or square bases.

With respect to Furgueson, Furgueson teaches a nozzle storage unit including a nozzle support and a bracket for attaching the nozzle storage unit to a hose or to a vertical or horizontal surface. See Furgueson col. 1, Ins. 53-64, col. 2, Ins. 59-66 & figure 1. Notably, as with Santa Cruz, Furgueson does not teach or disclose attachment plugs which are attached at an acute angle in relation to a mounting rack.

In the present invention, a key aspect of novelty is the attachment of the plugs at an acute angle in relation to the mounting rack. See Specification page 2, Ins. 10-12, page 4, Ins. 15-16 & Figure 1.

Moreover, it is notable that the inventions of Santa Cruz and Furgueson as shown and described cannot be combined in the manner suggested by the Commissioner. It simply would not work. The design of Furgueson precludes a channel systems as in Santa Cruz, there would be no way to attach the attachment plugs of Santa Cruz to Furgueson. Moreover, the construction of Santa Cruz would preclude the aperture configuration of Furgueson. The combination simply will not work.

The rejections are respectfully traversed as to all these claims. It is requested that the rejections by withdrawn. Nevertheless, rejected Claim 5

depends from Claim 1 which has been amended as discussed in the previous section. It is believed that the rejection of Claim 5 has become moot by the present amendments to the Claim 1.

As such, it is respectfully requested that the rejections be withdrawn.

CONCLUSION

For the foregoing reasons, reconsideration and allowance of Claims 1-6 of the application as amended is solicited. The Commissioner is encouraged to telephone the undersigned at (360) 750-9931 if it appears that an interview would be helpful in advancing the case. The Applicant respectfully submits that the rejection of the pending claims must be withdrawn, and that this application is in condition for allowance. Such is earnestly requested.

Respectfully submitted,

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